

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DYNAMIC ENJOY CORPORATION and	:	
NADIA CHRISTOPOULOS,	:	
	:	
Plaintiffs,	:	22-CV-9909 (VSB)
	:	
-against-	:	
	:	<u>ORDER</u>
	:	
PICCOLO BY GAMBRINUS, LLC,	:	
ALEXANDER CESARIA VANDERBILT,	:	
and CANDO CAPITAL, LLC,	:	
	:	
Defendants.	:	
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VERNON S. BRODERICK, United States District Judge:

Plaintiffs have applied for entry of default judgment pursuant to Fed. R. Civ. P. 55 against Defendants Piccolo by Gambrinus, LLC, (“Piccolo”), Alexander Cesaria Vanderbilt, (“Vanderbilt”), and Cando Capital, LLC, (“Cando Capital” together with the other two defendants, the “Defendants.”) Because Defendants have appeared in this action, Plaintiffs’ motion for entry of a default judgment is DENIED and the certificates of default against each of the three Defendants are hereby VACATED.

Plaintiffs filed the complaint on November 21, 2022. (Doc. 1.) The Clerk of Court issued a Certificate of Default as to each of the three Defendants, entered on February 3, 2023 for Piccolo and Vanderbilt and February 13, 2023 for Cando Capital. (Docs. 15, 16, 19.) The Certificate of Default against Piccolo certifies that service was made on the Secretary of State of the State of New York on December 22, 2022. (Doc. 15.) The Certificate of Default against Vanderbilt certifies that service was made on a “John Doe” at 252 Seventh Avenue, Suite 5P, New York, NY 10001 on December 14, 2022. (Doc. 16.) Lastly, the Certificate of Default

against Cando Capital certifies that service was made on an employee of the Registered Agent at 2415 N. Monroe Street, Suite 810 Tallahassee, Florida 32303 on January 20, 2023. (Doc. 19.)

Defense counsel filed a notice of appearance on behalf of all three Defendants on April 14, 2023. (Doc. 27.) That same day, Defendants filed an extension request to respond to the Order to Show Cause. (Doc. 28.) On April 19, 2023, Defendants filed a Declaration of Jennifer L. Harrington and Affidavit of Defendant Alexander Cesaria Vanderbilt in opposition to the Order to Show Cause. (Doc. 30, 31.) Plaintiffs filed a reply affidavit and reply affirmation in support of the Order to Show Cause. (Docs. 31, 32.) Defendants' opposition raises claims of ineffective service, which Plaintiffs deny. Regardless of any service allegations, at this juncture Defendants have been served and appeared in this action, and therefore, default judgment is no longer the appropriate remedy. Accordingly, it is hereby

ORDERED that Plaintiffs' motion for entry of default judgment is DENIED.

IT IS FURTHER ORDERED that the Order to Show Cause hearing currently scheduled for April 25, 2023 is hereby terminated.

IT IS FURTHER ORDERED that Defendants shall answer or otherwise respond to the Complaint by May 15, 2023.

The Clerk of the Court is respectfully directed to vacate the Clerk's Certificates of Default at Docket Entries 15, 16, and 19.

SO ORDERED.

Dated: April 24, 2023
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, flowing style.

Vernon S. Broderick
United States District Judge